A COMPARATIVE ANALYSIS OF CHILD RIGHT TO EDUCATION IN GERMANY, AND THE UNITED STATE OF AMERICA

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Abstract

The right to education is universal, but girls continue to suffer severe disadvantage and exclusion within education systems in many countries. Gender disparity begins in early childhood and is present at all stages of girls' lives, impacting negatively on their access to education. Children miss out on school because their families need them to earn money. But by sacrificing their education, they become trapped in a cycle of poverty. Many countries, particularly developing countries, face an acute shortage of qualified teachers. Even though schooling is largely financed with public resources across the globe, a great deal of heterogeneity is observed between countries and world regions. The study employs a doctrinal method of research where the study is to identify and assess the right to education of children in the USA, and Germany, and whether an acceptance of a universal right to education can lead to the benefits of economic efficiency and improvements in social welfare. Hence, the study is undertaken to understand the implementation of the right to education in aforesaid countries.

Keywords: ***Child right to education, Education system, literacy, comparative education system.***

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Free Available at SSRN: https://ssrn.com/abstract=4138351

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1.0 INTRODUCTION:

The U.S. education law has developed under both the federal system and the state systems. The U.S. Constitution does not explicitly enumerate a positive fundamental right to education[2]. The Supreme Court and federal and state legislatures have been the catalysts through which the right to education has been developed. In federal constitutional law, there exist two types of rights. Here we will look at these types within the framework of education. One is a negative right to education, which was recognized in Meyer v. Nebraska, 262 U.S. 390 (1923). A negative right to education is the right to have the government not interferes with your attempt to acquire learning[3]. The other is called a positive right to education which is something that the Supreme Court has never recognized in the context of education. A positive right would be an affirmative right that the government must provide a certain quantum or quality of education[4]. In essence, the government would guarantee the citizenry a certain level of education that it must provide. In addition to positive and negative rights, federal constitutional rights can be seen as fundamental or non-fundamental rights.[5]

In 1975, Congress enacted the Education for All Handicapped Children Act which has been revised and renamed the Individuals with Disabilities Education Act (IDEA)[6]. This act creates a federal positive fundamental right to education for those who are disabled[7]. As long as the child fits the criteria under the act, the child is guaranteed a "free appropriate education in the least restrictive environment."[8] To be eligible under this act, three things are required: 1) the child must be between the age of three and twenty-one; 2) the child must have a specifically identified disability, and 3) the child must also require special education and its related services[9]. Although the act is vague in describing what "appropriate education" means, it appears necessary that some educational benefit must materialize.[10]

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[2] Brooke Wilkins, Should Public Education be a Federal Fundamental Right?, 2005 BYU Educ. & L.J. 261, 271 (2005).
[3] Meyer v. Nebraska, 262 U.S. 390 (1923)
[4] Susan H. Bitensky, Legal Theory: Theoretical Foundations for a Right to Education Under the U.S. Constitution: A Beginning to the End of the National Education Crisis, 86 Nw. U. L. Rev. 550, 563 (1992)[hereinafter Bitensky]; Kara A. Millonzi, Education as a Right of National Citizenship Under the Privileges or Immunities Clause of the Fourteenth Amendment, 81 N.C. L. Rev. 1286, 1309-10(2003).
[5] Allan Farnsworth E. (2010), An Introduction to the Legal System of the United States Fourth Edition, Oxford University Press; 4th Edition (July 16, 2010), ISBN-10 : 9780199733101, ISBN-13 : 978-0199733101
[6] The Educational Rights of Students: International Perspectives on Demystifying the Legal Issues 223-43 (Charles J. Russo et al. eds., Rowman & Littlefield Education) (2007) [hereinafter Educational Rights].
[7] Wilkins, supra note 12
[8] Educational Rights, supra note 15, at 236.
[9] *Id.* at 235.
[10] *Id.* at 236

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Then, in 2002, Congress enacted the No Child Left Behind Act (NCLB).[11] This act was designed to improve student achievement with various far-ranging provisions. The more vital of these provisions purport that states must take steps to improve academic achievement among the economically disadvantaged if the states are to receive federal funds, highly qualified teachers must be trained and recruited, and improved English proficiency must be provided to students that have English as a second language, schools shall become more accountable for academic achievement, research-based teaching methods that have been proven effective must be used, and parents shall be afforded better school choice especially if the local schools are inadequate.[12] "The [intended] purpose of [NCLB] is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments."[13] The NCLB is seen as a federal attempt to improve educational equity and reduce the necessity to bring constitutional claims or educational malpractice suits.[14] At the very least, this over 1,100-page document could be seen as evidence of a federal statement of a positive fundamental right to education.[15]

The German education system functions upon the rules and regulations of the Basic Law "*Grundgesetz".* The Federal Ministries of Education, Cultural Affairs, and Science is the main authority for making education, science, and arts policy guidelines, and for adopting related laws and administrative regulations. The ministry closely collaborates with the Federation and Länders (German states) authorities, in supervising the entire activity of the educational institutions, organizations, and foundations. The legislative and executive power over primary and secondary education always has been vested in the states and most of the states have constitutional provisions on education and extensive legislation on the educational system.[16] Some uniformity among the states is achieved through the efforts of a permanent conference of the education ministers of the states.[17] In 2006, a major reform of the German

[11] *Id.* at 238.
[12] *Id.*
[13] Trisha Loscalzo Yates, A Criticism of the No Child Left Behind Act: How the Convention on the Rights of the Child Can Offer Promising Reform of Education Legislation in America, 5 Whittier J. Child & Fam. Advoc. 399 (2006)
[14] Amy Reichbach, Note: The Power Behind the Promise: Enforcing No Child Left Behind to Improve Education, 45 B.C. L. Rev. 667 (2004).
[15] Yates, supra note 22, at 400.
[16] In Bavaria, for instance, Bayerisches Gesetz über das Erziehungs- und Unterrichtswesen, repromulgated May 31, 2000, BAYERISCHES GESETZ- UND VERORDNUNGSBLATT [BayGVBl] 414, as amended.
[17] Kutusministerkonferenz im Schulwesen

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Constitution[18] strengthened the role of the states by granting them power over framework legislation on universities, which before the reform had been vested in the Federation. However, the same reform gives the Federation the power to institute uniform standards for examinations at universities.

School attendance is mandatory for all children in Germany from the age of six until the age of eighteen, and homeschooling is not permissible. Children often have a choice between public and private schools. The latter may be religious or secular, and either can obtain governmental subsidies if they are properly accredited.[19] Aside from a few private universities, attendance at colleges and universities is free,[20] and stipends and loans are provided to students who cannot defray their living expenses while studying.[21]

The German education system is structured into preschool (below the age of six), primary school (grade 1-4, ages six to ten), secondary schooling (up to age nineteen), and tertiary schooling at universities and colleges. Secondary schooling branches out into tracks at age eleven, with more opportunities to choose at age fifteen. These tracks differentiate between general education, a college-preparatory track, and a vocational track. In some states, the college-preparatory track already starts at age eleven, although opportunities for changing the direction of a child's education exist at various levels. This track system that makes children choose their career path at an early age has recently come under criticism. Vernor Muñoz, Special Rapporteur on the Right to Education, reported to the United Nations General Assembly that the German school system disadvantages children of low socio-economic backgrounds, in particular, the children of immigrants.[22]

Germany has a longstanding tradition of providing special schools for children with special needs. Yet until a few years ago, education for the disabled and other special children was provided in segregated schools. Since 1994, however, the awareness has been growing that this form of special schooling discriminates against the disabled, and efforts have since then been underway to integrate special education into the regular school system.[23] The issue has constitutional overtones since an amendment to the Constitution now prohibits discrimination

[18] Grundgesetzänderungsgesetz 2006, Aug. 28,.
[19] GG, art. 7.
[20] Hochschulrahmengesetz, Jan. 19, 1999, BGBl I at 18, as amended.
[21] Bundesausbildungsförderungsgesetz, June 6, 1983, BGBl I at 645, as amended.
[22] United Nations Human Rights Council, Implementation of General Assembly Resolution 60/ 251, Mission to Germany (Feb 2006)
[23] Avenarius, H., EINFÜHRUNG IN DAS SCHULRECHT 22 (Darmstadt, 2001)

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against the disabled. Decisions of the Federal Constitutional Court have applied this guarantee to the schooling of the disabled, yet change is required only to the financially feasible extent.[24]
A report filed by the President of the INGO Conference of the Council of Europe, Annelise Oeschger finds that children and their parents are subject to United Nations, European Union and UNICEF human rights violations. Of particular concern is the German (and Austrian) agency, Jugendamt (German: Youth office) that often unfairly allows for unchecked government control of the parent-child relationship, which have resulted in harm including torture, degrading, cruel treatment and has led to children's death. The problem is complicated by the nearly "unlimited power" of the Jugendamt officers, with no processes to review or resolve inappropriate or harmful treatment. By German law, Jugendamt officers are protected against prosecution. Jugendamt (JA) officers span of control is seen in cases that go to family court where experts testimony may be overturned by lesser educated or experienced JA officers; In more than 90% of the cases the JA officer's recommendation is accepted by family court. Officers have also disregarded family court decisions, such as when to return children to their parents, without repercussions. Germany has not recognized related child-welfare decisions made by the European Parliamentary Court that have sought to protect or resolve children and parental rights violations.[25]

A. Education System in the United States of America

The history of education in the United States, or Foundations of Education covers the trends in educational formal and informal learning in America from the 17th century to the early 21st century.
The first American schools in the thirteen original colonies opened in the 17th century. Boston Latin School was founded in 1635 and is both the first public school and oldest existing school in the United States.[26] The first free taxpayer-supported public school in North America, the

[24] GG art. 3.
[25] League for Children's Rights Individual UPR Submission: Germany. February 2009. Submitted by Bündnis RECHTE für KINDER e.V. and supported by President of the INGO Conference of the Council of Europe, Annelise Oeschger.
[26] "History of Boston Latin School—oldest public school in America".

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Mather School, was opened in Dorchester, Massachusetts, in 1639.[27,28] Cremin (1970) stresses that colonists tried at first to educate by the traditional English methods of family, church, community, and apprenticeship, with schools later becoming the key agent in "socialization." At first, the rudiments of literacy and arithmetic were taught inside the family, assuming the parents had those skills. Literacy rates were much higher in New England because much of the population had been deeply involved in the Protestant Reformation and learned to read in order to read the Scriptures. Literacy was much lower in the South, where the Anglican Church was the established church. Single working-class people formed a large part of the population in the early years, arriving as indentured servants. The planter class did not support public education but arranged for private tutors for their children, and sent some to England at appropriate ages for further education.

By the mid-19th century, the role of the schools in New England had expanded to such an extent that they took over many of the educational tasks traditionally handled by parents.[29,30]

2.0 MAIN DISCUSSION

All the New England colonies required towns to set up schools, and many did so. In 1642 the Massachusetts Bay Colony made "proper" education compulsory; other New England colonies followed this example. Similar statutes were adopted in other colonies in the 1640s and 1650s. The schools were all male and all white, with few facilities for girls.[31] In the 18th century, "common schools" were established; students of all ages were under the control of one teacher in one room. Although they were publicly supplied at the local (town) level, they were not free. Students' families were charged tuition or "rate bills."

The larger towns in New England opened grammar schools, the forerunner of the modern high school.[32] The most famous was the Boston Latin School, which is still in operation as a public high school. Hopkins School in New Haven, Connecticut, was another. By the 1780s, most had

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[27] "History", Mather Elementary School

[28] "The Mather School is marking 375 years of public education; NYPD's Bratton, an alumnus, to speak at assembly | Dorchester Reporter"

[29] Lawrence Cremin, American Education: The Colonial Experience, 1607–1783 (Harper & Row, 1970)

[30] Maris A. Vinovskis, "Family and Schooling in Colonial and Nineteenth-Century America," Journal of Family History, Jan 1987, Vol. 12 Issue 1-3, pp 19–37

[31] "Schooling, Education, and Literacy, In Colonial America", *Maps of Educational Institutions in Colonial America before 1700*

[32] Walter H. Small, "The New England Grammar School, 1635–1700," School Review 7 (September 1902): 513–31

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been replaced by private academies. By the early 19th century New England operated a network of private high schools, now called "prep schools," typified by Phillips Andover Academy (1778), Phillips Exeter Academy (1781), and Deerfield Academy (1797). They became the major feeders for Ivy League colleges in the mid-19th century.[33] These prep schools became coeducational in the 1970s, and remain highly prestigious in the 21st century.[34,35]

2.1 THE SOUTH

Residents of the Upper South, centered on the Chesapeake Bay, created some basic schools early in the colonial period. In late 17th century Maryland, the Catholic Jesuits operated some schools for Catholic students.[36] Generally the planter class hired tutors for the education of their children or sent them to private schools. During the colonial years, some sent their sons to England or Scotland for schooling.

In March 1620, George Thorpe sailed from Bristol for Virginia. He became a deputy in charge of 10,000 acres (4,000 ha) of land to be set aside for a university and Indian school. The plans for the school for Native Americans ended when George Thorpe was killed in the Indian Massacre of 1622. In Virginia, rudimentary schooling for the poor and paupers was provided by the local parish.[37] Most elite parents either home schooled their children using peripatetic tutors or sent them to small local private schools.[38]

In the deep south (Georgia and South Carolina), schooling was carried out primarily by private venture teachers and a hodgepodge of publicly funded projects. In the colony of Georgia, at least ten grammar schools were in operation by 1770, many taught by ministers. The Bethesda Orphan House educated children. Dozens of private tutors and teachers advertised their service in newspapers. A study of women's signatures indicates a high degree of literacy in areas with schools.[39] In South Carolina, scores of school projects were advertised in the South Carolina

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[33] Ronald Story, "Harvard Students, The Boston Elite, And The New England Preparatory System, 1800–1870," History of Education Quarterly, Fall 1975, Vol. 15 Issue 3, pp 281–298

[34] James McLachlan, American Boarding Schools: A Historical Study (1970)

[35] Arthur Powell, Lessons from Privilege: The American Prep School Tradition (Harvard UP, 1998)

[36] Bernard Christian Steiner (1894). History of education in Maryland. U.S. Government Printing Office. p. 16

[37] Tyler, Lyon Gardiner (1897). "Education in Colonial Virginia. Part I: Poor Children and Orphans". William and Mary College Quarterly Historical Magazine. **5** (4):

[38] Tyler, Lyon Gardiner (1897). "Education in Colonial Virginia. Part II: Private Schools and Tutors". William and Mary College Quarterly Historical Magazine. **6**: 1–6.

[39] Arthur, Linda L. (2000). "A New Look at Schooling and Literacy: The Colony of Georgia". Georgia Historical Quarterly. **84** (4): 563–588.

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Gazette beginning in 1732. Although it is difficult to know how many ads yielded successful schools, many of the ventures advertised repeatedly over years, suggesting continuity. [40,41]

After the American Revolution, Georgia and South Carolina tried to start small public universities. Wealthy families sent their sons North to college. In Georgia public county academies for white students became more common, and after 1811 South Carolina opened a few free "common schools" to teach reading, writing and arithmetic to whites.

Republican governments during the Reconstruction era established the first public school systems to be supported by general taxes. Both whites and blacks would be admitted, but legislators agreed on racially segregated schools. (The few integrated schools were located in New Orleans).

Particularly after white Democrats regained control of the state legislatures in former Confederate states, they consistently underfunded public schools for blacks which continued until 1954 when the United States Supreme Court declared state laws establishing separate public schools for black and white students to be unconstitutional.

Generally public schooling in rural areas did not extend beyond the elementary grades for either whites or blacks. This was known as "eighth grade school"[42] After 1900, some cities began to establish high schools, primarily for middle class whites. In the 1930s roughly one fourth of the US population still lived and worked on farms and few rural Southerners of either race went beyond the 8th grade until after 1945.[43,44,45]

2.2 WOMEN AND GIRLS

The earliest continually operating school for girls in the United States is the Catholic Ursuline Academy in New Orleans. It was founded in 1727 by the Sisters of the Order of Saint Ursula. The Academy graduated the first female pharmacist. The first convent established in the United States supported the Academy. This was the first free school and first retreat center for young women. It was the first school to teach free women of color, Native Americans, and female

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[40] Sundue, Sharon Braslaw (2009). Industrious in Their Stations: Young People at Work in Urban America, 1720–1810. Charlottesville: University of Virginia Press. .

[41] Spady, James O'Neil (2011), "To Vie with One against Another: Race and Demand for Non-elite White Education in an Eighteenth-Century Colonial Society". Early American Studies. **9** (3): 649–676.

[42] Maurice R. Berube (1994), American School Reform: Progressive, Equity, and Excellence Movements, 1883-1993, Praeger

[43] John Hardin Best, "Education in the Forming of the American South," History of Education Quarterly 36#1 (1996), pp. 39–51 in JSTOR

[44] Charles Dabney, Universal Education in the South (2 vols. 1939)

[45] Anderson, James D. (1988). The Education of Blacks in the South, 1860–1935. Chapel Hill: University of North Carolina Press. ISBN 0-8078-1793-7.

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African-American slaves. In the region, Ursuline provided the first center of social welfare in the Mississippi Valley; and it was the first boarding school for girls in Louisiana, and the first school of music in New Orleans.[46]

Tax-supported schooling for girls began as early as 1767 in New England. It was optional and some towns proved reluctant to support this innovation. Northampton, Massachusetts, for example, was a late adopter because it had many rich families who dominated the political and social structures. They did not want to pay taxes to aid poor families. Northampton assessed taxes on all households, rather than only on those with children, and used the funds to support a grammar school to prepare boys for college. Not until after 1800 did Northampton educate girls with public money. In contrast, the town of Sutton, Massachusetts, was diverse in terms of social leadership and religion at an early point in its history. Sutton paid for its schools by means of taxes on households with children only, thereby creating an active constituency in favor of universal education for both boys and girls.[47]

Historians note that reading and writing were different skills in the colonial era. Schools taught both, but in places without schools, writing was taught mainly to boys and a few privileged girls. Men handled worldly affairs and needed to both read and write. It was believed that girls needed only to read (especially religious materials). This educational disparity between reading and writing explains why the colonial women often could read, but could not write and could not sign their names—they used an "X".[48]

The education of elite women in Philadelphia after 1740 followed the British model developed by the gentry classes during the early 18th century. Rather than emphasizing ornamental aspects of women's roles, this new model encouraged women to engage in more substantive education, reaching into the classical arts and sciences to improve their reasoning skills. Education had the capacity to help colonial women secure their elite status by giving them traits that their 'inferiors' could not easily mimic. Fatherly (2004) examines British and American writings that influenced Philadelphia during the 1740s–1770s and the ways in which Philadelphia women gained education and demonstrated their status.[49]

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[46] Clark, Robenstine. "French Colonial Policy and the Education of Women and Minorities: Louisiana in the Early Eighteenth Century," History of Education Quarterly (1992) 32

[47] Kathryn Kish Sklar, "The Schooling of Girls and Changing Community Values in Massachusetts Towns, 1750–1820," History of Education Quarterly 1993 33(4): 511–542

[48] Jennifer E. Monaghan, "Literacy Instruction and Gender in Colonial New England," American Quarterly 1988 40(1): 18–41 in JSTOR

[49] Sarah E. Fatherly, "Women's Education in Colonial Philadelphia," Pennsylvania Magazine Of History and Biography 2004 128(3): 229–256

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2.3 NON-ENGLISH SCHOOLS

By 1664, when the territory was taken over by the English, most towns in the New Netherland colony had already set up elementary schools. The schools were closely related to the Dutch Reformed Church, and emphasized reading for religious instruction and prayer. The English closed the Dutch-language public schools; in some cases these were converted into private academies. The new English government showed little interest in public schools.[50]

German settlements from New York through Pennsylvania, Maryland and down to the Carolinas sponsored elementary schools closely tied to their churches, with each denomination or sect sponsoring its own schools. In the early colonial years, German immigrants were Protestant and the drive for education was related to teaching students to read Scripture. [51,52]

Following waves of German Catholic immigration after the 1848 revolutions, and after the end of the Civil War, both Catholics and Missouri Synod Lutherans began to set up their own German-language parochial schools, especially in cities of heavy German immigration: such as Cincinnati, St. Louis, Chicago and Milwaukee, as well as rural areas heavily settled by Germans.[53] The Amish, a small religious sect speaking German, are opposed to schooling past the elementary level. They see it as unnecessary, as dangerous to preservation of their faith, and as beyond the purview of government. [54,55]

Spain had small settlements in Florida, the Southwest, and also controlled Louisiana. There is little evidence that they schooled any girls. Parish schools were administered by Jesuits or Franciscans and were limited to male students.[56]

2.4 TEXTBOOKS

In the 17th century, colonists imported schoolbooks from England. By 1690, Boston publishers were reprinting the English Protestant Tutor under the title of The New England Primer. The Primer was built on rote memorization. By simplifying Calvinist theology,

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[50] Kilpatrick, William Heard (1912), The Dutch Schools of New Netherland and Colonial New York. Govt. Print. Off. pp. 13–38.

[51] Kessel, Elizabeth A. (1982). "'A Mighty Fortress Is Our God': German Religious and Educational Organizations on the Maryland Frontier, 1734–1800", Maryland Historical Magazine. **77** (4): 370–387.

[52] Maurer, Charles Lewis (1932), Early Lutheran Education in Pennsylvania.

[53] Coburn, Carol (1992), Life at Four Corners: Religion, Gender, and Education in a German-Lutheran Community, 1868–1945.

[54] The Supreme Court supported them in the Wisconsin v. Yoder decision in 1972.

[55] Gage Raley, "'Yoder' Revisited: Why The Landmark Amish Schooling Case Could—And Should—Be Overturned" Virginia Law Review 97#3 (2011),

[56] MacDonald, Victoria (2004). Latino Education in the United States: A Narrated History from 1513–2000. New York: Palgrave Macmillan. p. 12.

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the Primer enabled the Puritan child to define the limits of the self by relating his life to the authority of God and his parents. [57,58] The Primer included additional material that made it widely popular in colonial schools until it was supplanted by Webster's work. The "blue backed speller" of Noah Webster was by far the most common textbook from the 1790s until 1836, when the McGuffey Readers appeared. Both series emphasized civic duty and morality, and sold tens of millions of copies nationwide.[59]

Webster's Speller was the pedagogical blueprint for American textbooks; it was so arranged that it could be easily taught to students, and it progressed by age. Webster believed students learned most readily when complex problems were broken into its component parts. Each pupil could master one part before moving to the next. Ellis argues that Webster anticipated some of the insights associated in the 20th century with Jean Piaget's theory of cognitive development. Webster said that children pass through distinctive learning phases in which they master increasingly complex or abstract tasks. He stressed that teachers should not try to teach a three-year-old how to read—wait until they are ready at age five. He planned the Speller accordingly, starting with the alphabet, then covering the different sounds of vowels and consonants, then syllables; simple words came next, followed by more complex words, then sentences. Webster's Speller was entirely secular. It ended with two pages of important dates in American history, beginning with Columbus' "discovery" in 1492 and ending with the Battle of Yorktown in 1781, by which the United States achieved independence. There was no mention of God, the Bible, or sacred events. As Ellis explains, "Webster began to construct a secular catechism to the nation-state. Here was the first appearance of 'civics' in American schoolbooks. In this sense, Webster's speller was the secular successor to The New England Primer with its explicitly biblical injunctions."[60] Bynack (1984) examines Webster in relation to his commitment to the idea of a unified American national culture that would prevent the decline of republican virtues and national solidarity. Webster acquired his perspective on language from such German theorists as Johann David Michaelis and Johann Gottfried Herder. He believed with them that a nation's linguistic forms and the thoughts correlated with them

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[57] Roberts, Kyle B. (2010). "Rethinking The New-England Primer". Papers of the Bibliographical Society of America. **104** (4): 489–523

[58] Watters, David H. (1985). "'I Spake as a Child': Authority, Metaphor and the New England Primer". Early American Literature. **20** (3): 193–213.

[59] Westerhoff, John H. III (1978). McGuffey and His Readers: Piety, Morality, and Education in Nineteenth-Century America. Nashville: Abingdon. .

[60] Ellis, Joseph J. (1979). After the Revolution: Profiles of Early American Culture. New York: Norton. pp. 174–175

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shaped individuals' behavior. He intended the etymological clarification and reform of American English to improve citizens' manners and thereby preserve republican purity and social stability. Webster animated his Speller and Grammar by following these principles.[61]

2.5 COLONIAL COLLEGES

Higher education was largely oriented toward training men as ministers before 1800. Doctors and lawyers were trained in local apprentice systems.

Religious denominations established most early colleges in order to train ministers. New England had a long emphasis on literacy in order that individuals could read the Bible. Harvard College was founded by the colonial legislature in 1636, and named after an early benefactor. Most of the funding came from the colony, but the college began to build an endowment from its early years.[62] Harvard at first focused on training young men for the ministry, but many alumni went into law, medicine, government or business. The college was a leader in bringing Newtonian science to the colonies.[63]

The College of William & Mary was founded by Virginia government in 1693, with 20,000 acres (8,100 ha) of land for an endowment, and a penny tax on every pound of tobacco, together with an annual appropriation. It was closely associated with the established Anglican Church. James Blair, the leading Anglican minister in the colony, was president for 50 years. The college won the broad support of the Virginia planter class, most of whom were Anglicans. It hired the first law professor and trained many of the lawyers, politicians, and leading planters.[64] Students headed for the ministry were given free tuition.

Yale College was founded by Puritans in 1701, and in 1716 was relocated to New Haven, Connecticut. The conservative Puritan ministers of Connecticut had grown dissatisfied with the more liberal theology of Harvard, and wanted their own school to train orthodox ministers. However, president Thomas Clap (1740–1766) strengthened the curriculum in the natural sciences and made Yale a stronghold of revivalist New Light theology.[65]

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[61] *Bynack, Vincent P. (1984). "Noah Webster and the Idea of a National Culture: the Pathologies of Epistemology". Journal of the History of Ideas.* ***45*** *(1): 99–114.*

[62] Report of the president of Harvard College and reports of departments. *Harvard University. 1902. pp.* 2

[63] Frederick E. Brasch, "The Newtonian Epoch in the American Colonies." Proceedings of the American Antiquarian Society Vol. 49. (1939).

[64] Craig Evan Klafter, "St. George Tucker: The First Modern American Law Professor." Journal of The Historical Society 6.1 (2006): 133-150.

[65] Louis Leonard Tucker, Puritan Protagonist President Thomas Clap of Yale College (1962).

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New Side Presbyterians in 1747 set up the College of New Jersey, in the town of Princeton; much later it was renamed as Princeton University. Baptists established Rhode Island College in 1764, and in 1804 it was renamed Brown University in honor of a benefactor. Brown was especially liberal in welcoming young men from other denominations.

In New York City, the Anglicans set up Kings College in 1746, with its president Samuel Johnson the only teacher. It closed during the American Revolution, and reopened in 1784 as an independent institution under the name of Columbia College; it is now Columbia University. The Academy of Philadelphia was created in 1749 by Benjamin Franklin and other civic minded leaders in Philadelphia. Unlike colleges in other cities, it was not oriented toward the training of ministers. It founded the first medical school in America in 1765, therefore becoming America's first university. The Pennsylvania state legislature conferred a new corporate charter upon the College of Philadelphia and renamed it the University of Pennsylvania in 1791.[66]

The Dutch Reform Church in 1766 set up Queens College in New Jersey, which later became known as Rutgers University and gained state support. Dartmouth College, chartered in 1769 as a school for Native Americans, relocated to its present site in Hanover, New Hampshire, in 1770. [67,68]

All of the schools were small, with a limited undergraduate curriculum oriented on the classical liberal arts. Students were drilled in Greek, Latin, geometry, ancient history, logic, ethics and rhetoric, with few discussions, little homework and no lab sessions. The college president typically tried to enforce strict discipline. The upperclassmen enjoyed hazing the freshmen. Many students were younger than 17, and most of the colleges also operated a preparatory school. There were no organized sports, or Greek-letter fraternities, but many of the schools had active literary societies. Tuition was very low and scholarships were few.[69]

The colonies had no schools of law. A few young American students studied at the prestigious Inns of Court in London. The majority of aspiring lawyers served apprenticeships with established American lawyers, or "read the law" to qualify for bar exams.[70] Law became very well established in the colonies, compared to medicine, which was in rudimentary

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[66] "The University of Pennsylvania: America's First University". University of Pennsylvania Archives & Records Center

[67] John R. Thelin, A History of American Higher Education (2004) pp 1–40

[68] Lawrence A. Cremin, American Education: The Colonial Experience, 1607–1783 (1970)

[69] Frederick Rudolph, The American College and University: A History (1991)

[70] Anton-Hermann Chroust, Rise of the Legal Profession in America (1965) vol 1 ch 1–2

Electronic copy available at: https://ssrn.com/abstract=4138351

condition. In the 18th century, 117 Americans had graduated in medicine in Edinburgh, Scotland, but most physicians learned as apprentices in the colonies.[71]

The trustees of the Academy of Philadelphia, later the University of Pennsylvania, established the first medical school in the colonies in 1765, becoming the first university in the colonies.[72] In New York, the medical department of King's College was established in 1767, and in 1770 it awarded the first American M.D. degree.[73]

2.6 Federal Era

After the Revolution, northern states especially emphasized education and rapidly established public schools. By the year 1870, all states had tax-subsidized elementary schools.[74] The US population had one of the highest literacy rates in the world at the time.[75] Private academies also flourished in the towns across the country, but rural areas (where most people lived) had few schools before the 1880s.

In 1821, Boston started the first public high school in the United States. By the close of the 19th century, public secondary schools began to outnumber private ones.[76,77]

Over the years, Americans have been influenced by a number of European reformers; among them Pestalozzi, Herbart, and Montessori.[78]

2.7 Republican motherhood

By the early 19th century with the rise of the new United States, a new mood was alive in urban areas. Especially influential were the writings of Lydia Maria Child, Catharine Maria Sedgwick, and Lydia Sigourney, who developed the role of republican motherhood as a principle that united state and family by equating a successful republic with virtuous families. Women, as intimate and concerned observers of young children, were best suited to the role of

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[71] Genevieve Miller, "A Physician in 1776," Clio Medica, Oct 1976, Vol. 11 Issue 3, pp 135–146

[72] Supra note 137

[73] Jacob Ernest Cooke, ed. Encyclopedia of the North American colonies (3 vol 1992) 1:214

[74] Paul Monroe, A Cyclopedia of Education (4 vol. 1911) covers each state

[75] "High literacy rates in America ... exceeded 90 per cent in some regions by 1800." Hannah Barker and Simon Burrows, eds. Press, Politics and the Public Sphere in Europe and North America 1760–1820 (2002) p. 141; for lower rates in Europe see p. 9.

[76] "The History of Education", History-world.org

[77] Jurgen Herbst, The Once and Future School: Three Hundred and Fifty Years of American Secondary Education (1996)

[78] Supra note 147

Electronic copy available at: https://ssrn.com/abstract=4138351

guiding and teaching children. By the 1840s, New England writers such as Child, Sedgwick, and Sigourney became respected models and advocates for improving and expanding education for females. Greater educational access meant formerly male-only subjects, such as mathematics and philosophy, were to be integral to curricula at public and private schools for girls. By the late 19th century, these institutions were extending and reinforcing the tradition of women as educators and supervisors of American moral and ethical values.[79]

The ideal of Republican motherhood pervaded the entire nation, greatly enhancing the status of women and supporting girls' need for education. The relative emphasis on decorative arts and refinement of female instruction which had characterized the colonial era was replaced after 1776 by a program to support women in education for their major role in nation building, in order that they become good republican mothers of good republican youth. Fostered by community spirit and financial donations, private female academies were established in towns across the South as well as the North.[80]

Rich planters were particularly insistent on having their daughters schooled, since education often served as a substitute for dowry in marriage arrangements. The academies usually provided a rigorous and broad curriculum that stressed writing, penmanship, arithmetic, and languages, especially French. By 1840, the female academies succeeded in producing cultivated, well-read female elite ready for their roles as wives and mothers in southern aristocratic society.[81]

2.8 Attendance

The 1840 census indicated that about 55% of the 3.68 million children between the ages of five and fifteen attended primary schools or academies. Many families could not afford to pay for their children to go to school or to spare them from farm work.[82] Beginning in the late 1830s, more private academies were established for girls for education past primary school, especially in northern states. Some offered classical education similar to that offered to boys.

Data from the indentured servant contracts of German immigrant children in Pennsylvania from 1771–1817 show that the number of children receiving education increased from 33.3%

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[79] Sarah Robbins, "'The Future Good and Great of our Land': Republican Mothers, Female Authors, and Domesticated Literacy in Antebellum New England," New England Quarterly2002 75(4): 562–591 in JSTOR

[80] Catherine Clinton, "Equally Their Due: The Education of the Planter Daughter in the Early Republic," Journal of the Early Republic 1982 2(1): 39–60

[81] Ibid

[82] 1840 Census Data, Progress of the United States in Population and Wealth in Fifty Years, accessed May 10, 2008.

Electronic copy available at: https://ssrn.com/abstract=4138351

in 1771–1773 to 69% in 1787–1804. Additionally, the same data showed that the ratio of school education versus home education rose from .25 in 1771–1773 to 1.68 in 1787–1804.[83] While some African Americans managed to achieve literacy, southern states largely prohibited schooling to blacks.

2.9 TEACHERS, EARLY 1800S

Teaching young students was not an attractive career for educated people.[84] Adults became teachers without any particular skill. Hiring was handled by the local school board, who was mainly interested in the efficient use of limited taxes and favored young single women from local taxpaying families. This started to change with the introduction of two-year normal schools starting in 1823. Normal schools increasingly provided career paths for unmarried middle-class women. By 1900 most teachers of elementary schools in the northern states had been trained at normal schools.[85]

2.10 ONE-ROOM SCHOOLHOUSES

Given the high proportion of the population in rural areas, with limited numbers of students, most communities relied on one-room school houses. Teachers would deal with the range of students of various ages and abilities by using the Monitorial System, an education method that became popular on a global scale during the early 19th century. This method was also known as "mutual instruction" or the "Bell-Lancaster method" after the British educators Dr. Andrew Bell and Joseph Lancaster, who each independently developed it about 1798. As older children in families would teach younger ones, the abler pupils in these schools became 'helpers' to the teacher, and taught other students what they had learned.[86]

2.11 MANN REFORMS

Upon becoming the secretary of education of Massachusetts in 1837, Horace Mann (1796–1859) worked to create a statewide system of professional teachers, based on the Prussian model of "common schools." Prussia was attempting to develop a system of education by which all students were entitled to the same content in their public classes. Mann initially focused on elementary education and on training teachers. The common-school movement

[83] Farley Grubb, "Educational Choice in the Era before Free Public Schooling: Evidence from German Immigrant Children in Pennsylvania, 1771–1817" The Journal of Economic History, 52#2 (1992), pp. 363–375.
[84] Fonals Parkerson, Donald H. and JoAnn Parkerson, Transitions in American Education: A Social History of Teaching. (Routledge, 2001) ch 1.
[85] Supra note 148
[86] "Monitorial system", Britannica Encyclopedia

Electronic copy available at: https://ssrn.com/abstract=4138351

quickly gained strength across the North. Connecticut adopted a similar system in 1849, and Massachusetts passed a compulsory attendance law in 1852. [87,88] Mann's crusading style attracted wide middle-class support. Historian Ellwood P. Cubberley asserts:

No one did more than he to establish in the minds of the American people the conception that education should be universal, non-sectarian, free, and that its aims should be social efficiency, civic virtue, and character, rather than mere learning or the advancement of sectarian ends.[89]

An important technique which Mann had learned in Prussia and introduced in Massachusetts in 1848 was to place students in grades by age. They were assigned by age to different grades and progressed through them, regardless of differences of aptitude. In addition, he used the lecture method common in European universities, which required students to receive instruction rather than take an active role in instructing one another.[90] Previously, schools had often had groups of students who ranged in age from 6 to 14 years. With the introduction of age grading, multi-aged classrooms all but disappeared.[91] Some students progressed with their grade and completed all courses the secondary school had to offer. These were "graduated," and were awarded a certificate of completion. This was increasingly done at a ceremony imitating college graduation rituals.

Arguing that universal public education was the best way to turn the nation's unruly children into disciplined, judicious republican citizens, Mann won widespread approval for building public schools from modernizers, especially among fellow Whigs. Most states adopted one version or another of the system he established in Massachusetts, especially the program for "normal schools" to train professional teachers.[92] This quickly developed into a widespread form of school which later became known as the factory model school.

Free schooling was available through some of the elementary grades. Graduates of these schools could read and write, though not always with great precision. Mary Chesnut, a Southern diarist, mocks the North's system of free education in her journal entry of June 3, 1862, where she derides misspelled words from the captured letters of Union soldiers.[93]

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[87] Peterson, Paul E. (2010). Saving Schools: From Horace Mann to Virtual Learning. pp. 21–36.

[88] Messerli, Jonathan (1972). Horace Mann: A Biography.

[89] Cubberley, Ellwood P. (1919). Public Education in the United States. p. 167.

[90] Adnan Qayyum Olaf and Zawacki-Richter Editors (2018), Open and Distance Education in Australia, Europe and the Americas National Perspectives in a Digital Age, ISBN-13 : 978-9811302978, ISBN-10 : 9811302979

[91] Thomas C., ed. (2010). "Age Grading". Encyclopedia of Educational Reform and Dissent. **2**. p. 33.

[92] Groen, Mark (2008). "The Whig Party and the Rise of Common Schools, 1837–1854". American Educational History Journal. **35** (1/2): 251–260.

[93] Chesnut, Mary Boykin Miller (1980). A Diary from Dixie. Harvard University Press .

Electronic copy available at: https://ssrn.com/abstract=4138351

2.12 COMPULSORY LAWS

By 1900, 34 states had compulsory schooling laws; four were in the South. Thirty states with compulsory schooling laws required attendance until age 14 (or higher).[94] As a result, by 1910, 72 percent of American children attended school. Half the nation's children attended one-room schools. By 1918, every state required students to complete elementary school.[95]

3.0 RELIGION AND SCHOOLS

As the majority of the nation was Protestant in the 19th century, most states passed a constitutional amendment, called Blaine Amendments, forbidding tax money be used to fund parochial schools. This was largely directed against Catholics, as the heavy immigration from Catholic Ireland after the 1840s aroused nativist sentiment. There were longstanding tensions between Catholic and Protestant believers, long associated with nation states that had established religions. Many Protestants believed that Catholic children should be educated in public schools in order to become American. By 1890 the Irish, who as the first major Catholic immigrant group controlled the Church hierarchy in the U.S., had built an extensive network of parishes and parish schools ("parochial schools") across the urban Northeast and Midwest. The Irish and other Catholic ethnic groups intended parochial schools not only to protect their religion, but to enhance their culture and language.[96,97]

Catholics and German Lutherans, as well as Dutch Protestants, organized and funded their own elementary schools. Catholic communities also raised money to build colleges and seminaries to train teachers and religious leaders to head their churches.[98,99] In the 19th century, most Catholics were Irish or German immigrants and their children; in the 1890s new waves of Catholic immigrants began arriving from Italy and Poland. The parochial schools met some opposition, as in the Bennett Law in Wisconsin in 1890, but they thrived and grew. Catholic nuns served as teachers in most schools and were paid low salaries in keeping with their vows

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[94] "Research Details", *Available at* https://www.heinz.cmu.edu/faculty-research/profiles/

[95] Graham, P.A. 1974). Community and Class in American Education, 1865–1918. New York: Wiley.

[96] Timothy Walch, Parish School: American Catholic Parochial Education From Colonial Times to the Present (2003)

[97] James J. Hennesey, American Catholics: A History of the Roman Catholic Community in the United States (1983) p 172

[98] Walch, Parish School (2003)

[99] Dennis Clark, The Irish in Philadelphia: Ten Generations of Urban Experience, (1984), pp. 96–101

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of poverty.[100] In 1925 the U.S. Supreme Court ruled in Pierce v. Society of Sisters that students could attend private schools to comply with state compulsory education laws, thus giving parochial schools an official blessing.[101]

4.0 SCHOOLS FOR BLACK STUDENTS

In the early days of the Reconstruction era, the Freedmen's Bureau opened 1000 schools across the South for black children. This was essentially building on schools that had been established in numerous large contraband camps. Freedmen were eager for schooling for both adults and children, and the enrollments were high and enthusiastic. Overall, the Bureau spent $5 million to set up schools for blacks. By the end of 1865, more than 90,000 freedmen were enrolled as students in these schools. The school curriculum resembled that of schools in the North.[102]

Many Bureau teachers were well-educated Yankee women motivated by religion and abolitionism. Half the teachers were southern whites; one-third were blacks, and one-sixth were northern whites.[103] Most were women but among African Americans, male teachers slightly outnumbered female teachers. In the South, people were attracted to teaching because of the good salaries, at a time when the societies were disrupted and the economy was poor. Northern teachers were typically funded by northern organizations and were motivated by humanitarian goals to help the freedmen. As a group, only the black cohort showed a commitment to racial equality; they were also the ones most likely to continue as teachers.[104]

When the Republicans came to power in the Southern states after 1867, they created the first system of taxpayer-funded public schools. Southern Blacks wanted public schools for their children but they did not demand racially integrated schools. Almost all the new public schools were segregated, apart from a few in New Orleans. After the Republicans lost power in the mid-1870s, conservative whites retained the public school systems but sharply cut their funding. [105]

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[100] Carol Coburn and Martha Smith Spirited Lives: How Nuns Shaped Catholic Culture and American Life, 1836–1920 (1999

[101] Hennesey, American Catholics pp 247–48

[102] Anderson, James D. (1988). The Education of Blacks in the South, 1860–1935. Chapel Hill: University of North Carolina Press. ISBN 0-8078-1793-7.

[103] Butchart, Ronald E. (2010). Schooling the Freed People: Teaching, Learning, and the Struggle for Black Freedom, 1861–1876. Chapel Hill: University of North Carolina Press.

[104] Krowl, Michelle A. (September 2011). "Review of Butchart, Ronald E., Schooling the Freed People: Teaching, Learning, and the Struggle for Black Freedom, 1861–1876". H-SAWH, H-Net Reviews.

[105] Zuczek, Richard (2015). Reconstruction: A Historical Encyclopedia of the American Mosaic. ABC-CLIO..

Electronic copy available at: https://ssrn.com/abstract=4138351

Almost all private academies and colleges in the South were strictly segregated by race.[106] The American Missionary Association supported the development and establishment of several historically black colleges, such as Fisk University and Shaw University. In this period, a handful of northern colleges accepted black students. Northern denominations and their missionary associations especially established private schools across the South to provide secondary education. They provided a small amount of collegiate work. Tuition was minimal, so churches supported the colleges financially, and also subsidized the pay of some teachers. In 1900, churches—mostly based in the North—operated 247 schools for blacks across the South, with a budget of about $1 million. They employed 1600 teachers and taught 46,000 students.[107,108] Prominent schools included Howard University, a federal institution based in Washington; Fisk University in Nashville, Atlanta University, Hampton Institute in Virginia, and many others. Most new colleges in the 19th century were founded in northern states.

In 1890, Congress expanded the land-grant program to include federal support for state-sponsored colleges across the South. It required states to identify colleges for black students as well as white ones in order to get land grant support.

Hampton Normal and Agricultural Institute was of national importance because it set the standards for what was called industrial education.[109] Of even greater influence was Tuskegee Normal School for Colored Teachers, led from 1881 by Hampton alumnus Booker T. Washington. In 1900 few black students were enrolled in college-level work; their schools had very weak faculties and facilities. The alumni of Keithley became high school teachers.[110]

While the colleges and academies were generally coeducational, until the late 20th century, historians had taken little notice of the role of women as students and teachers.[111]

5.0 Native American Missionary Schools

As religious revivalism swept through the United States in the early 1800s, a growing group of evangelical Christians took on the role of missionaries. These missionaries were, in many

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[106] Berea College in Kentucky was the main exception until state law in 1904 forced its segregation. Richard Allen Heckman and Betty Jean Hall. "Berea College and the Day Law." Register of the Kentucky Historical Society 66.1 (1968): 35–52. in JSTOR

[107] Annual Report: Hampton Negro Conference.

[108] Joe M. Richardson, Christian Reconstruction: The American Missionary Association and Southern Blacks, 1861–1890 (1986).

[109] Anderson, James D. (1988). The Education of Blacks in the South, 1860–1935. Chapel Hill: University of North Carolina Press. .

[110] Freeman, Kassie (1998). African American Culture and Heritage in Higher Education Research and Practice.

[111] Marybeth Gasman, "Swept under the rug? A historiography of gender and Black colleges," American Educational Research Journal 44#4 (2007): 760–805.

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cases, concerned with converting non-Christians to Christianity. Native Americans were a nearby and easy target for these missionaries. According to the scholars Theda Perdue and Michael D. Green, these Christian missionaries believed that the Native Americans were uncivilized, and were in need of help from the missionaries to make them more civilized and more like Anglo-Americans.[112]

Missionaries found great difficulty converting adults, but, according to Perdue and Green's research, they found it much easier to convert Native American children. To do so, missionaries often separated Native American children from their families to live at boarding schools where the missionaries believed they could civilize and convert them.[113] Missionary schools in the American Southeast were first developed in 1817.[114] Perdue and Green's research has shown that these children did not only learn the basic subjects of education that most American children experienced, but also were taught to live and act like Anglo-Americans. Boys learned to farm, and girls were taught domestic labor, and according to Perdue and Green, they were taught that Anglo-American civilization was superior to the traditional Native American cultures that these children came from.[115] David Brown, a Cherokee man who converted to Christianity and promoted the conversion to Christianity of Native Americans, went on a fundraising speaking tour to raise money for missionary societies and their boarding schools. Brown, in his speech, described the progress that he believed had been made in civilizing Native American children in missionary schools. "The Indians," he claimed, "are making rapid advances toward the standard of morality, virtue and religions."[116]

The responsibility for missionary work fell on the missionaries themselves for the most part. While the U.S. government provided some funding for missionary work, such as Native American Missionary Schools, the missionaries themselves were primarily responsible for running these schools.[117] The scholar Kyle Massey Stephens argues that the federal government acted in a supporting role in assimilation programs like these mission schools. President James Monroe, though, wanted the United States to increase funding and assistance with private mission schools in their efforts to educate Native American children.

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[112] Perdue, Theda; Green, Michael (2016). The Cherokee Removal A Brief History With Documents. Bedford/St. Martin's. pp. 41, 42, 43.

[113] Ibid

[114] Stephens, Kyle (2013). "To the Indian Removal Act, 1814-1830". University of Tennessee: 78.

[115] Supra note 182

[116] Martin, Joel (2010), "Crisscrossing Projects of Sovereignty and Conversion: Cherokee Christians and New England Missionaries during the 1820s". Native Americans, Christianity, and the Reshaping of the American Religious Landscape, Chapel Hill, North Carolina: University of North Carolina Press, p. 75.

[117] Supra note 182

Electronic copy available at: https://ssrn.com/abstract=4138351

According the Stephen's work, the first missionary schools from 1817 were funded completely by private donors. In 1819, this changed when Congress appropriated an annual fee of $10,000 to be given to missionary societies in addition to their private fundraising. The United States Secretary of War at the time, John C. Calhoun, advocated for these funds to be used towards educating Native American children in Anglo-American culture with courses on farming and mechanics for boys, and domestic labor for girls.[118] The Bureau of Indian Affairs, which was founded in 1824 to handle issues related to Native Americans, had thirty-two missionary schools that they had sanctioned in Native American communities in its first year of existence. In these schools, 916 Native American children were enrolled.[119]

5.1 INFLUENCE OF COLLEGES IN 19TH CENTURY

Summarizing the research of Burke and Hall, Katz concludes that in the 19th century:[120]

1. The nation's many small colleges helped young men make the transition from rural farms to complex urban occupations.
2. These colleges especially promoted upward mobility by preparing ministers, and thereby provided towns across the country with a core of community leaders.
3. The more elite colleges became increasingly exclusive and contributed relatively little to upward social mobility. By concentrating on the offspring of wealthy families, ministers and a few others, the elite Eastern colleges, especially Harvard, played an important role in the formation of a Northeastern elite with great power.

5.2 THE 20TH CENTURY

5.2.1 Progressive Era

The progressive era in education was part of a larger Progressive Movement, extending from the 1890s to the 1930s. The era was notable for a dramatic expansion in the number of schools and students served, especially in the fast-growing metropolitan cities. After 1910, smaller

[118] Supra note 184

[119] Prucha, Francis (1984). The Great Father: The United States Government And The American Indians. Lincoln, Nebraska: University of Nebraska Press, p. 153.

[120] Michael Katz, "The Role of American Colleges in the Nineteenth Century," History of Education Quarterly, Vol. 23, No. 2 (Summer, 1983), pp. 215–223 in JSTOR, summarizing Colin B. Burke, American Collegiate Populations: A Test of the Traditional View (New York University Press, 1982) and Peter Dobkin Hall, The Organization of American Culture: Private Institutions, Elites, and the Origins of American Nationality (New York University Press, 1982)

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cities also began building high schools. By 1940, 50% of young adults had earned a high school diploma.[121]

Radical historians in the 1960s, steeped in the anti-bureaucratic ethos of the New Left, deplored the emergence of bureaucratic school systems. They argued its purpose was to suppress the upward aspirations of the working class.[122] But other historians have emphasized the necessity of building non-politicized standardized systems. The reforms in St. Louis, according to historian Selwyn Troen, were, "born of necessity as educators first confronted the problems of managing a rapidly expanding and increasingly complex institutions." Troen found that the bureaucratic solution removed schools from the bitterness and spite of ward politics. Troen argues:

In the space of only a generation, public education had left behind a highly regimented and politicized system dedicated to training children in the basic skills of literacy and the special discipline required of urban citizens, and had replaced it with a largely apolitical, more highly organized and efficient structure specifically designed to teach students the many specialized skills demanded in a modern, industrial society. In terms of programs this entailed the introduction of vocational instruction, a doubling of the period of schooling, and a broader concern for the welfare of urban youth.[123]

The social elite in many cities in the 1890s led the reform movement. Their goal was to permanently end political party control of the local schools for the benefit of patronage jobs and construction contracts, which had arisen out of ward politics that absorbed and taught the millions of new immigrants. New York City elite led progressive reforms. Reformers installed a bureaucratic system run by experts, and demanded expertise from prospective teachers. The reforms opened the way for hiring more Irish Catholic and Jewish teachers, who proved adept at handling the civil service tests and gaining the necessary academic credentials[124]. Before the reforms, schools had often been used as a means to provide patronage jobs for party foot soldiers. The new emphasis concentrated on broadening opportunities for the students. New programs were established for the physically handicapped; evening recreation centers were set

[121] Supra note 148

[122] Diane Ravitch, The Revisionists Revised: A Critique of the Radical Attack on the Schools(1978

[123] Selwyn K. Troen, The Public and the Schools: Shaping the St. Louis System 1838–1920(1975 quoted in Ravitch, The Revisionists Revised, pp 55–56

[124] Charles Herman Pritchett (1977), American Constitution, McGraw-Hill Inc.,US (1 February 1977), ISBN-10 : 0070508771, ISBN-13 : 978-0070508774

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up; vocational schools were opened; medical inspections became routine; programs began to teach English as a second language; and school libraries were opened.[125]

5.3 DEWEY AND PROGRESSIVE EDUCATION

The leading educational theorist of the era was John Dewey (1859–1952), a philosophy professor at the University of Chicago (1894–1904) and at Teachers College (1904 to 1930), of Columbia University in New York City.[126] Dewey was a leading proponent of "Progressive Education" and wrote many books and articles to promote the central role of democracy in education.[127] He believed that schools were not only a place for students to gain content knowledge, but also as a place for them to learn how to live. The purpose of education was thus to realize the student's full potential and the ability to use those skills for the greater good.

Dewey noted that, "to prepare him for the future life means to give him command of him; it means so to train him that he will have the full and ready use of all his capacities." Dewey insisted that education and schooling are instrumental in creating social change and reform. He noted that "education is a regulation of the process of coming to share in the social consciousness; and that the adjustment of individual activity on the basis of this social consciousness is the only sure method of social reconstruction.".[128] Although Dewey's ideas were very widely discussed, they were implemented chiefly in small experimental schools attached to colleges of education. In the public schools, Dewey and the other progressive theorists encountered a highly bureaucratic system of school administration that was typically not receptive to new methods.[129]

Dewey viewed public schools and their narrow-mindedness with disdain and as undemocratic and close minded. Meanwhile, laboratory schools, such as the University of Chicago Laboratory Schools, were much more open to original thought and experimentation. Not only was Dewey involved with laboratory schools, but he was also deeply involved with the emerging philosophy of pragmatism, which he incorporated within his laboratory schools. Dewey viewed pragmatism critical for the growth of democracy, which Dewey did not view as just a form of government, but something that occurred within the workings of the laboratory

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[125] Ravitch, Diane (1978). The Revisionists Revised: A Critique of the Radical Attack: the Schools. Basic Books, p. 53.

[126] Paul Peterson, Saving Schools: From Horace Mann to Virtual Learning (2010) pp 37–50

[127] William J. Reese, "The Origins of Progressive Education," History of Education Quarterly2001 41(1): 1–24.

[128] John Dewey, My Pedagogic Creed (1897) PP. 6, 16

[129] Diane Ravitch, Left Back: A Century of Failed School Reforms (2000), p. 169; David Tyack, The One Best System: A History of American Urban Education (1974) pp. 197–98.

Electronic copy available at: https://ssrn.com/abstract=4138351

schools as well as everyday life. Dewey utilized the laboratory schools as an experimental platform for his theories on pragmatism, democracy, as well as how humans learned.[130]

5.4 BLACK EDUCATION

Booker T. Washington was the dominant black political and educational leader in the United States from the 1890s until his death in 1915. Washington not only led his own college, Tuskegee Institute in Alabama, but his advice, political support, and financial connections proved important to many other black colleges and high schools, which were primarily located in the South. This was the center of the black population until after the Great Migration of the first half of the 20th century. Washington was a respected advisor to major philanthropies, such as the Rockefeller, Rosenwald and Jeanes foundations, which provided funding for leading black schools and colleges. The Rosenwald Foundation provided matching funds for the construction of schools for rural black students in the South. Washington explained, "We need not only the industrial school, but the college and professional school as well, for a people so largely segregated, as we are. Our teachers, ministers, lawyers and doctors will prosper just in proportion as they have about them an intelligent and skillful producing class."[131] Washington was a strong advocate of progressive reforms as advocated by Dewey, emphasizing scientific, industrial and agricultural education that produced a base for lifelong learning, and enabled careers for many black teachers, professionals, and upwardly mobile workers. He tried to adapt to the system and did not support political protests against the segregated Jim Crow system.[132] At the same time, Washington used his network to provide important funding to support numerous legal challenges by the NAACP against the systems of disenfranchisement which southern legislatures had passed at the turn of the century, effectively excluding blacks from politics for decades into the 1960s.

5.5 GREAT DEPRESSION AND NEW DEAL: 1929-39

Public schools across the country were badly hurt by the Great Depression, as tax revenues fell in local and state governments shifted funding to relief projects. Budgets were slashed, and teachers went unpaid. During the New Deal, 1933–39, President Franklin Roosevelt and his

[130] Durst, Anne (July 2010). Women Educators in the Progressive Era (First ed.). New York: Palgrave Macmillan.
[131] Harlan, Louis R. (1983). Booker T. Washington: The Wizard of Tuskegee 1901–1915, Oxford University Press, pp. 174–201 [quote pp. 174–5], ISBN 0-19-503202-0.
[132] Generals, Donald (2000), "Booker T. Washington and Progressive Education: An Experimentalist Approach to Curriculum Development and Reform". Journal of Negro Education, 69 (3): 215–234. doi:10.2307/2696233. JSTOR 2696233

Electronic copy available at: https://ssrn.com/abstract=4138351

advisers were hostile to the elitism shown by the educational establishment. They refused all pleas for direct federal help to public or private schools or universities. They rejected proposals for federal funding for research at universities. But they did help poor students, and the major New Deal relief programs built many schools buildings as requested by local governments.[133] The New Deal approach to education was a radical departure from educational best practices. It was specifically designed for the poor and staffed largely by women on relief. It was not based on professionalism, nor was it designed by experts. Instead it was premised on the anti-elitist notion that a good teacher does not need paper credentials, that learning does not need a formal classroom and that the highest priority should go to the bottom tier of society. Leaders in the public schools were shocked: They were shut out as consultants and as recipients of New Deal funding. They desperately needed cash to cover the local and state revenues that had disappeared during the depression, they were well organized, and made repeated concerted efforts in 1934, 1937, and 1939, all to no avail. The conservative Republican establishment headed collaborated with for so long was out of power and Roosevelt himself was the leader in anti-elitism. The federal government had a highly professional Office of Education; Roosevelt cut its budget and staff, and refused to consult with its leader John Ward Studebaker.[134] The Civilian Conservation Corps (CCC) programs were deliberately designed to not teach skills that would put them in competition with unemployed union members. The CCC did have its own classes. They were voluntary, took place after work, and focused on teaching basic literacy to young men who had quit school before high school.[135]

The relief programs did offer indirect help. The Civil Works Administration (CWA) and Federal Emergency Relief Administration (FERA) focused on hiring unemployed people on relief, and putting them to work on public buildings, including public schools. It built or upgraded 40,000 schools, plus thousands of playgrounds and athletic fields. It gave jobs to 50,000 teachers to keep rural schools open and to teach adult education classes in the cities. It gave a temporary jobs to unemployed teachers in cities like Boston. [136,137] Although the New Deal refused to give money to impoverished school districts, it did give money to impoverished

[133] Graham, S. (1985). Constitutional Law of the Federal System. By C. Herman Pritchett. (Englewood Cliffs, N.J.: Prentice-Hall, 1984. Pp. xiii 382. $17.95.) - Constitutional Civil Liberties. By C. Herman Pritchett. (Englewood Cliffs, N.J.: Prentice-Hall, 1984. Pp. x 406. $17.95.). *American Political Science Review, 79*(1), 223-224. doi:10.2307/1956160

[134] David Tyack et al. Public Schools in Hard times: the Great Depression and Recent Years(1984) pp 93-107.

[135] Adam R. Nelson and John L. Rudolph (2010), Education and the Culture of Print in Modern America,

[136] Leuchtenburg, p 121-22

[137] Tyack et al. Public Schools in Hard Times pp 105

Electronic copy available at: https://ssrn.com/abstract=4138351

high school and college students. The CWA used "work study" programs to fund students, both male and female.[138]

The National Youth Administration (NYA), a semi-autonomous branch of the Works Progress Administration (WPA) under Aubrey Williams developed apprenticeship programs and residential camps specializing in teaching vocational skills. It was one of the first agencies to set up a "Division of Negro Affairs" and make an explicit effort to enroll black students. Williams believed that the traditional high school curricula had failed to meet the needs of the poorest youth. In opposition, the well-established National Education Association (NEA) saw NYA as a dangerous challenge to local control of education NYA expanded Work-study money to reach up to 500,000 students per month in high schools, colleges, and graduate schools. The average pay was $15 a month. [139,140] However, in line with the anti-elitist policy, the NYA set up its own high schools, entirely separate from the public school system or academic schools of education. [141,142] Despite appeals from Ickes and Eleanor Roosevelt, Howard University–the federally operated school for blacks—saw its budget cut below Hoover administration levels.[143]

5.6 HIGHER EDUCATION

At the beginning of the 20th century, fewer than 1,000 colleges with 160,000 students existed in the United States. Explosive growth in the number of colleges occurred at the end of the 19th and early 20th centuries, supported in part by Congress' land grant programs. Philanthropists endowed many of these institutions. For example, wealthy philanthropists established Johns Hopkins University, Stanford University, Carnegie Mellon University, Vanderbilt University and Duke University; John D. Rockefeller funded the University of Chicago without imposing his name on it.[144]

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[138] Kevin P. Bower, 'A favored child of the state', Federal Student Aid at Ohio Colleges and Universities, 1934–1943, History of Education Quarterly 44.3 (2004): 364-387.

[139] Ronald Story, The New Deal and Higher Education in The New Deal and the Triumph of Liberalism ed. by Sidney M. Milkis (2002). pp 272-96.

[140] Report of the National Youth Administration, June 26, 1935 to June 30, 1938 (1938)

[141] Tyack et al. Public Schools in Hard Times p 104

[142] Stephen Lassonde, "The Real, Real Youth Problem: The New Deal and American Youth: Ideas and Ideals in a Depression Decade by Richard A. Reiman," Reviews in American History 22#1 (1994) pp. 149-155 in JSTOR

[143] Clifford L. Muse, "Howard University and The Federal Government During The Presidential Administrations of Herbert Hoover and Franklin D. Roosevelt, 1928-1945." The Journal of Negro History 76.1/4 (1991): 1-20. in JSTOR

[144] Veysey, Laurence R. (1965), The Emergence of the American University, Chicago: University of Chicago Press, ISBN

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5.7 EDUCATION AFTER 1945

In mid-20th century America, there was intense interest in using institutions to support the innate creativity of children. It helped reshape children's play, the design of suburban homes, schools, parks, and museums.[145] Producers of children's television programming worked to spark creativity. Educational toys proliferated that were designed to teach skills or develop abilities. For schools there was a new emphasis on arts as well as science in the curriculum. School buildings no longer were monumental testimonies to urban wealth; they were redesigned with the students in mind.[146]

The emphasis on creativity was reversed in the 1980s, as public policy emphasized test scores, school principals were forced to downplay art, drama, music, history and anything that was not being scored on standardized tests, lest their school be labelled "failing" by the quantifiers behind the "No Child Left Behind Act.[147,148]

5.8 ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

The Elementary and Secondary Education Act (ESEA) was a cornerstone of President Lyndon B. Johnson's "War on Poverty" (McLaughlin, 1975)[149]. This law brought education into the forefront of the national assault on poverty and represented a landmark commitment to equal access to quality education (Jeffrey, 1978)[150]. ESEA is an extensive statute that funds primary and secondary education, emphasizing high standards and accountability. As mandated in the act, funds are authorized for professional development, instructional materials, resources to support educational programs, and the promotion of parental involvement. The act was signed into law on April 9, 1965 and its appropriations were to be carried out for five fiscal years. The government has reauthorized the act every five years since its enactment.[151]

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[145] Amy F. Ogata, Designing the Creative Child: Playthings and Places in Midcentury America(2013)

[146] Amy F. Ogata, "Building for learning in postwar American elementary schools", Journal of the Society of Architectural Historians" 67.4 (2008): 562-591.

[147] Deborah Meier and George Wood (2004), Many Children Left Behind: How the No Child Left Behind Act Is Damaging Our Children and Our Schools

[148] Leo M. Casey, "The Will to Quantify: The" Bottom Line" in the Market Model of Education Reform." Teachers College Record 115.9 (2013)

[149] McLaughlin, M. (1975). Evaluation and reform: The Elementary and Secondary Education Act of 1965, Title I. Cambridge, Massachusetts: Ballinger Publishing Company

[150] Jeffrey, J. (1978). Education for children of the poor: A study of the origins and implementation of the Elementary and Secondary Education Act of 1965. Columbus: Ohio State University Press.

[151] Paul, C. A. (2016), Elementary and Secondary Education Act of 1965, *Social Welfare History Project*, Retrieved from http://socialwelfare.library.vcu.edu/programs/education/elementary-and-secondary-education-act-of-1965/

Electronic copy available at: https://ssrn.com/abstract=4138351

5.9 THE 14TH AMENDMENT TO THE U.S. CONSTITUTION

The 14th Amendment to the Constitution was ratified on July 9, 1868, and granted citizenship to “all persons born or naturalized in the United States,” which included former slaves recently freed. In addition, it forbids states from denying any person "life, liberty or property, without due process of law" or to "deny to any person within its jurisdiction the equal protection of the laws.” By directly mentioning the role of the states, the 14th Amendment greatly expanded the protection of civil rights to all Americans and is cited in more litigation than any other amendment.

While education may not be a "fundamental right" under the Constitution, the equal protection clause of the 14th Amendment requires that when a state establishes a public school system, no child living in that state may be denied equal access to schooling. The Equal Protection Clause of the 14th Amendment provides that a state may not “deny to any person within its jurisdiction the equal protection of the laws.” It applies to public elementary and secondary schools, as they are considered to be state actors.

Due process is another area of the 14th Amendment that has had a dramatic impact on individual rights in public education. The Due Process Clause says that states may not “deprive any person of life, liberty, or property, without due process of law.” The Supreme Court has interpreted this clause to have substantive and procedural protections. With substantive due process, the 14th Amendment protects a parent’s right to direct the educational upbringing of their child. Because of this right, the Supreme Court ruled that a state statute that prohibited the teaching of foreign language, and a state statute that required all students to attend public schools, as opposed to private schools, violated the 14th Amendment.

5.10 INEQUALITY

The Coleman Report, by University of Chicago sociology professor James Coleman proved especially controversial in 1966. Based on massive statistical data, the 1966 report titled "Equality of Educational Opportunity" fueled debate about "school effects" that has continued since.[152] The report was widely seen as evidence that school funding has little effect on student final achievement. A more precise reading of the Coleman Report is that student background and socioeconomic status are much more important in determining educational outcomes than are measured differences in school resources (i.e. per pupil spending). Coleman found that, on

[152][152] Hanushek, Eric A. (1998). "Conclusions and Controversies about the Effectiveness of School Resources" (PDF). Economic Policy Review. Federal Reserve Bank of New York. **4** (1): 11–27. Retrieved 30 December 2008.

Electronic copy available at: https://ssrn.com/abstract=4138351

average, black schools were funded on a nearly equal basis by the 1960s, and that black students benefited from racially mixed classrooms.[153,154]

The comparative quality of education among rich and poor districts is still often the subject of dispute. While middle-class African-American children have made good progress; poor minorities have struggled. With school systems based on property taxes, there are wide disparities in funding between wealthy suburbs or districts, and often poor, inner-city areas or small towns. "De facto segregation" has been difficult to overcome as residential neighborhoods have remained more segregated than workplaces or public facilities. Racial segregation has not been the only factor in inequities. Residents in New Hampshire challenged property tax funding because of steep contrasts between education funds in wealthy and poorer areas. They filed lawsuits to seek a system to provide more equal funding of school systems across the state.

Some scholars believe that transformation of the Pell Grant program to a loan program in the early 1980s has caused an increase in the gap between the growth rates of white, Asian-American and African-American college graduates since the 1970s.[155] Others believe the issue is increasingly related more to class and family capacity than ethnicity. Some school systems have used economics to create a different way to identify populations in need of supplemental help.

5.11 SPECIAL EDUCATION

In 1975 Congress passed Public Law 94-142, Education for All Handicapped Children Act. One of the most comprehensive laws in the history of education in the United States, this Act brought together several pieces of state and federal legislation, making free, appropriate education available to all eligible students with a disability.[156] The law was amended in 1986 to extend its coverage to include younger children.[157] In 1990 the Individuals with Disabilities

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[153] Wolters, Raymond (2008). "Educational Reform in the 1960s". Race and Education, 1954–2007. University of Missouri Press. pp. 155–187. ISBN 978-0-8262-1828-5.

[154] Hanushek, Eric A.; Kain, John F.; Rivkin, Steve G. (2009). "New Evidence about Brown v. Board of Education: The Complex Effects of School Racial Composition on Achievement"(PDF). Journal of Labor Economics. **27** (3): 349–383.

[155] Adams, J.Q.; Strother-Adams, Pearlie (2001). Dealing with Diversity. Chicago: Kendall/Hunt. ISBN 0-7872-8145-X.

[156] Chambers, Jay G.; Hartman, William T. (1983). Special Education Policies: Their History, Implementation, and Finance. Philadelphia: Temple University Press. ISBN 0-87722-280-0.

[157] Margaret G. Werts, Richard A. Culatta and James R. Tompkins Appalachian State University (2007), Fundamentals of Special Education What Every Teacher Needs to Know, 3rd Edition, Pearson Education India, ISBN-10 : 9789332555198, ISBN-13 : 978-9332555198

Electronic copy available at: https://ssrn.com/abstract=4138351

Education Act (IDEA) extended its definitions and changed the label "handicap" to "disabilities". Further procedural changes were amended to IDEA in 1997.[158]

5.12 Reform efforts in the 1980s

In 1983, the National Commission on Excellence in Education released a report titled A Nation at Risk. Soon afterward, conservatives were calling for an increase in academic rigor including an increase in the number of school days per year, longer school days and higher testing standards. English scholar E.D. Hirsch made an influential attack on progressive education, advocating an emphasis on "cultural literacy"—the facts, phrases, and texts that Hirsch asserted are essential for decoding basic texts and maintaining communication. Hirsch's ideas remain influential in conservative circles into the 21st century. Hirsch's ideas have been controversial because as Edwards argues:

Opponents from the political left generally accuse Hirsch of elitism. Worse yet in their minds, Hirsch's assertion might lead to a rejection of toleration, pluralism, and relativism. On the political right, Hirsch has been assailed as totalitarian, for his idea lends itself to turning over curriculum selection to federal authorities and thereby eliminating the time-honored American tradition of locally controlled schools.[159]

By 1990, the United States spent 2 percent of its budget on education, compared with 30 percent on support for the elderly.[160]

5.13 The 21st Century

5.13.1 Policy since 2000

"No Child Left Behind" was a major national law passed by a bipartisan coalition in Congress in 2002, marked a new direction. In exchange for more federal aid, the states were required to measure progress and punish schools that were not meeting the goals as measured by standardized state exams in math and language skills.[161,162,163] By 2012, half the states were

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[158] Longmore, Paul K. (2009). "Making Disability an Essential Part of American History". OAH Magazine of History. **23** (3): 11–15. doi:10.1093/maghis/23.3.11.

[159] Dr. Jason R. Edwards, "E.D. Hirsch Jr.: The Twentieth Century's Liberal Conservative Educator," The Center for Vision & Values (2009) online Archived 2016-03-04 at the Wayback Machine

[160] *"U.S. spending"*. Rolling Stone. *April 19, 1990.*

[161] Rhodes, Jesse (2012). An Education in Politics: The Origins and Evolution of No Child Left Behind. Cornell.

[162] Brill, Steven (2011). Class Warfare: Inside the Fight to Fix America's Schools. Simon and Schuster..

[163] "Archived: Fact Sheet on No Child Left Behind", Available at http://www.ed.gov/nclb/overview/intro/factsheet.html

Electronic copy available at: https://ssrn.com/abstract=4138351

given waivers because the original goal that 100% students by 2014 be deemed "proficient" had proven unrealistic.[164]

By 2012, 45 states had dropped the requirement to teach cursive writing from the curriculum. Few schools start the school day by singing the national anthem, as was once done. Few schools have mandatory recess for children. Educators are trying to reinstate recess. Few schools have mandatory arts class. Continuing reports of a student's progress can be found online, supplementing the former method of periodic report cards.[165]

By 2015, criticisms from a broad range of political ideologies had cumulated so far that a bipartisan Congress stripped away all the national features of No Child Left Behind, turning the remnants over to the states.[166]

Beginning in the 1980s, government, educators, and major employers issued a series of reports identifying key skills and implementation strategies to steer students and workers towards meeting the demands of the changing and increasingly digital workplace and society. 21st century skills are a series of higher-order skills, abilities, and learning dispositions that have been identified as being required for success in 21st century society and workplaces by educators, business leaders, academics, and governmental agencies. Many of these skills are also associated with deeper learning, including analytic reasoning, complex problem solving, and teamwork, compared to traditional knowledge-based academic skills.[167,168,169] Many schools and school districts are adjusting learning environments, curricula, and learning spaces to include and support more active learning (such as experiential learning) to foster deeper learning and the development of 21st century skills.

5.14 RACE TO THE TOP:

On June 24, 2009, President Barack Obama and Secretary of Education Arne Duncan announced a $4.35 billion competitive grant fund named the Race to the Top Fund. The competition, created by the U.S. Department of Education, was created to promote innovation and improve achievement in state and local K-12 education. The program was

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[164] *Resmovits, Joy (July 6, 2012).* "No Child Left Behind Waivers Granted To More Than Half Of U.S. States". *Huffington Post.*

[165] Te-Erika Patterson. "10 School Traditions Your Kids Will Never Experience"

[166] Lyndsey Layton, "Obama signs new K–12 education law that ends No Child Left Behind" Washington Post Dec 11, 2015

[167] Chris Dede, Comparing Frameworks for 21st Century Skills, Harvard Graduate School of Education, 2009

[168] Stedman Graham, Preparing for the 21st Century: Soft Skills Matter, Huffington Post, April 26, 2015

[169] Larry Cuban, Content vs. skills in high schools – 21st century arguments echo 19th century conflicts, November 3, 2015.

Electronic copy available at: https://ssrn.com/abstract=4138351

funded by the ED Recovery Act, a part of the American Recovery and Reinvestment Act. States were awarded funds for achieving performance standards, implementing reforms, complying with Common Core standards, building comprehensive data systems and turning around low performing schools. The goal for this plan was to provide incentives for effective reform efforts and reward states and districts for implementing these reforms. To become eligible, states needed to satisfy a "Common Core" of achievement standards. States proposed sweeping reform objectives and then submitted grant proposals for programs they believed would achieve the objectives outlined. Proposals were measured against scoring criteria, and grants were awarded. The Department of Education then measured states' progress towards their target objectives as the grant renewal process proceeded. Several states were unable to meet proposed targets in Race to the Top funded programs. As a result, grant allocation slowed significantly after three initial rounds. In 2012, President Obama announced a $400 million expansion of the program--the Race to the Top District competition--in which school districts, rather than state school systems, may apply for Race to the Top program grants.[170,171,172]

5.15 COMMON CORE:

The Common Core State Standards Initiative is an American education initiative that outlines quantifiable benchmarks in English and mathematics at each grade level from kindergarten through high school. These benchmarks were developed by a working group assembled by the National Governors Association and the Council of Chief State School Officers in 2008 through 2009. Common Core standards have drawn attention since their finalization in 2009 among groups concerned about several different elements included in the reforms, including the impact of standardized testing on academic achievement. A total of 43 states have approved Common Core standards as of June 20, 2014. Alaska, Nebraska, Texas and Virginia have not adopted the standards. Indiana, Oklahoma and South Carolina adopted the Common Core standards but repealed them in 2014. Minnesota has only adopted the English-language arts requirements from the Common Core standards

5.16 ONLINE LEARNING:

Online learning is a rapidly expanding type of education not only in the United States, but throughout the world. Although the first virtual classroom was an experiment that used closed

[170] Huffington Post, "Race To The Top For Districts Piques Interest Of Chicago And Los Angeles Mayors," March 3, 2012

[171] Ed.gov, "Race to the Top District Competition," accessed May 27, 2020

[172] Ed.gov, "Race to the Top Fund," accessed May 27, 2020

Electronic copy available at: https://ssrn.com/abstract=4138351

circuit television and an early computer network, online education has improved alongside technology. Courses taught in a studio or college in New England can be viewed or taken by students around the world. Students in elementary or secondary schools can take online courses through their districts or virtual charter schools. Critics assert that learning online is a poor substitute for classic instruction while proponents insist that the difference in education quality is negligible at its worst and improving gradually. Regardless, the National Center for Education Statistics reported that around 5.5 million college students took at least one online class in 2012. This data only accounts for a small number of students who participate in online education, as students of all ages and from anywhere in the world can potentially take classes online.[173,174,175]

The United States has signed but not ratified the CRC. As a result, children's rights have not been systematically implemented in the U.S. Children are generally afforded the basic rights embodied by the Constitution, as enshrined by the Fourteenth Amendment to the United States Constitution. The Equal Protection Clause of that amendment is to apply to children, born within a marriage or not, but excludes children not yet born.[176] This was reinforced by the landmark US Supreme Court decision of In re Gault (1967). In this trial 15-year-old Gerald Gault of Arizona was taken into custody by local police after being accused of making an obscene telephone call. He was detained and committed to the Arizona State Industrial School until he reached the age of 21 for making an obscene phone call to an adult neighbor. In an 8–1 decision, the Court ruled that in hearings which could result in commitment to an institution, people under the age of 18 have the right to notice and counsel, to question witnesses, and to protection against self-incrimination. The Court found that the procedures used in Gault's hearing met none of these requirements.[177]

The United States Supreme Court ruled in the case of Tinker v. Des Moines Independent Community School District (1969) that students in school have Constitutional rights.[178]

The United States Supreme Court has ruled in the case of Roper v. Simmons that persons may not be executed for crimes committed when below the age of eighteen. It ruled that such

[173] Chronicle, "Exactly how many students take online courses?" accessed January 16, 2015

[174] SayCampusLife.com, "History of online education," accessed January 16, 2015

[175] U.S. Department of Education, "Evaluation of evidence-based practices in online learning: a meta-analysis and review of online learning studies," accessed September 12, 2014

[176] Children's Rights, Available at https://www.law.cornell.edu/wex/childrens_rights

[177] In re Gault, 387 U.S. 1 (1967).

[178] Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

Electronic copy available at: https://ssrn.com/abstract=4138351

executions are cruel and unusual punishment, so they are a violation of the Eighth Amendment to the United States Constitution.[179]

B. EDUCATION SYSTME IN GERMANY

is primarily the responsibility of individual German states (Länder), with the federal government playing a minor role. Optional Kindergarten (nursery school) education is provided for all children between one and six years old, after which school attendance is compulsory.[180] The system varies throughout Germany because each state (Land) decides its own educational policies. Most children, however, first attend Grundschule (primary or elementary school) for 4 years from the age of 6 to 9.

Germany's secondary education is separated into two parts, lower and upper. Lower-secondary education in Germany is meant to teach individuals basic general education and gets them ready to enter upper-secondary education. In the upper secondary level Germany has a vast variety of vocational programs.

German secondary education includes five types of school. The Gymnasium is designed to prepare pupils for higher education and finishes with the final examination Abitur, after grade 13. From 2005 to 2018 a school reform known as G8 provided the Abitur in 8 school years. The reform failed due to high demands on learning levels for the children and were turned to G9 in 2019. Only a few Gymnasiums stay with the G8 model. Children attend usually Gymnasium from 10 to 18 years. The Realschule has a broader range of emphasis for intermediate pupils and finishes with the final examination Mittlere Reife, after grade 10; the Hauptschule prepares pupils for vocational education and finishes with the final examination Hauptschulabschluss, after grade 9 and the Realschulabschluss after grade 10. There are two types of grade 10: one is the higher level called type 10b and the lower level is called type 10a; only the higher-level type 10b can lead to the Realschule and this finishes with the final examination Mittlere Reife after grade 10b. This new path of achieving the Realschulabschluss at a vocationally oriented secondary school was changed by the statutory school regulations in 1981 – with a one-year qualifying period. During the one-year qualifying period of the change to the new regulations, pupils could continue with class 10 to

[179] Roper v. Simmons, 543 U. S. 551 (2005).

[180] EACEA.ec.europa.eu, National summary education system in Europe and ongoing reforms – Germany.

Electronic copy available at: https://ssrn.com/abstract=4138351

fulfil the statutory period of education. After 1982, the new path was compulsory, as explained above.

The format of secondary vocational education is put into a way to get individuals to learn high skills for a specific profession. "Most of Germany highly skilled workforce has gone through the dual system of vocational education and training also known as V.E.T. (Vocational Education and Training System)".[181] Many Germans participate in the V.E.T. programs. These V.E.T. programs are partnered with about 430,000 companies, and about 80 percent of those companies hire individuals from those apprenticeship programs to get a full-time job.[182] This educational system is very encouraging to young individuals because they are able to actively see the fruit of their loom. The education system is encouraging to individuals because they know that most likely a job will be waiting for them when they are done with school. The skills that are gained through these V.E.T. programs are not easily transferable and once a company commits to an employee that came out of these vocational schools, they have a commitment to each other.[183] Germany's V.E.T. programs prove that a college degree is not necessary for a good job and that training individuals for specific jobs could be successful as well.[184]

Other than this, there is the Gesamtschule, which combines the Hauptschule, Realschule and Gymnasium. There are also Förder- or Sonderschulen. One in 21 pupils attends a Förderschule.[185,186,187] Nevertheless, the Förder- or Sonderschulen can also lead, in special circumstances, to a Hauptschulabschluss of both type 10a or type 10b, the latter of which is the Realschulabschluss. The amount of extracurricular activity is determined individually by each school and varies greatly. With the 2015 school reform the German government tries to push more of those pupils into other schools, which is known as Inklusion. Many of Germany's hundred or so institutions of higher learning charge little or no tuition by international comparison.[188] Students usually must prove through examinations that they are qualified.

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[181] "How Germany's Vocational Education and Training system works". Clean Energy Wire. 2 August 2017. Retrieved 14 December 2018.

[182] Ibid

[183] Cusack, Thomas R.; Iversen, Torben (April 2000). "The Causes of Welfare State Expansion: Deindustrialization or Globalization?". World Politics. .

[184] "Could Germany's Vocational Education Training System Be a Model for the U.S.?". WENR. 12 June 2018. Retrieved 14 December 2018.

[185] Schülerzahlen Statistisches Bundesamt Deutschland.

[186] Country Profile: Germany, U.S. Library of Congress

[187] Schuetze, Christopher (25 August 2013). "Germany Backtracks on Tuition". The New York Times. Retrieved 13 September 2013.

[188] Ibid

Electronic copy available at: https://ssrn.com/abstract=4138351

A special system of apprenticeship called Duale Ausbildung allows pupils on vocational courses to do in-service training in a company as well as at a state school.[189]

5.17 PRUSSIAN

Historically, Lutheranism had a strong influence on German culture, including its education. Martin Luther advocated compulsory schooling so that all people would independently be able to read and interpret the Bible. This concept became a model for schools throughout Germany. German public schools generally have religious education provided by the churches in cooperation with the state ever since.

During the 18th century, the Kingdom of Prussia was among the first countries in the world to introduce free and generally compulsory primary education, consisting of an eight-year course of basic education, Volksschule. It provided not only the skills needed in an early industrialized world (reading, writing, and arithmetic) but also a strict education in ethics, duty, discipline and obedience. Children of affluent parents often went on to attend preparatory private schools for an additional four years, but the general population had virtually no access to secondary education and universities.

In 1810, after the Napoleonic wars, Prussia introduced state certification requirements for teachers, which significantly raised the standard of teaching. The final examination, Abitur, was introduced in 1788, implemented in all Prussian secondary schools by 1812 and extended to all of Germany in 1871. The state also established teacher training colleges for prospective teachers in the common or elementary grades.

5.18 GERMAN EMPIRE

When the German Empire was formed in 1871, the school system became more centralized. In 1872, Prussia recognized the first separate secondary schools for females.[190] As learned professions demanded well-educated young people, more secondary schools were established, and the state claimed the sole right to set standards and to supervise the newly established schools.

Four different types of secondary schools developed:

- A nine-year classical Gymnasium (including study of Latin and Classical Greek or Hebrew, plus one modern language);

[189] Supra note 246

[190] Albisetti, James C (1995), Secondary Schools and Social Structure in 19th Century Germany, Journal of Social History, Vol. 28, No. 4, Summer 1995

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- A nine-year Realgymnasium (focusing on Latin, modern languages, science and mathematics);
- A six-year Realschule (without university entrance qualification, but with the option of becoming a trainee in one of the modern industrial, office or technical jobs); and
- A nine-year Oberrealschule (focusing on modern languages, science and mathematics).

By the turn of the 20th century, the four types of schools had achieved equal rank and privilege, although they did not have equal prestige.

5.19 Weimar Republic

After World War I, the Weimar Republic established a free, universal four-year elementary school (Grundschule). Most pupils continued at these schools for another four-year course. Those who were able to pay a small fee went on to a Mittelschule that provided a more challenging curriculum for an additional one or two years. Upon passing a rigorous entrance exam after year four, pupils could also enter one of the four types of secondary school.

5.20 Nazi Germany

During the Nazi era (1933–1945), the basic education system remained unchanged.[191]

5.21 East Germany

The German Democratic Republic (East Germany) started its own standardized education system in the 1960s. The East German equivalent of both primary and secondary schools was the Polytechnic Secondary School (Polytechnische Oberschule), which all students attended for 10 years, from the ages of 6 to 16. At the end of the 10th year, an exit examination was set. Depending upon the results, a pupil could choose to come out of education or undertake an apprenticeship for an additional two years, followed by an Abitur. Those who performed very well and displayed loyalty to the ruling party could change to the Erweiterte Oberschule (extended high school), where they could take their Abitur examinations after 12 school years. Although this system was abolished in the early 1990s after reunification, it continues to influence school life in the eastern German states.[192]

5.22 West Germany

Since the 1990s, a few changes have been taking place in many schools:

[191] Robert Cecil (2019), Education and Elitism in Nazi Germany, ISF Publishing, ISBN-10: 1784793515, ISBN-13: 978-1784793517

[192] Rainer Arnold (2016), The Convergence of the Fundamental Rights Protection in Europe, Springer (5 April 2016), ASIN : B01DVLKXWE

Electronic copy available at: https://ssrn.com/abstract=4138351

- Introduction of bilingual education in some subjects
- Experimentation with different styles of teaching
- Equipping all schools with computers and Internet access
- Creation of local school philosophy and teaching goals ("Schulprogramm"), to be evaluated regularly
- Reduction of Gymnasium school years (Abitur after grade 12) and introduction of afternoon periods as in many other western countries (turned down in 2019)

In 2000 after much public debate about Germany's perceived low international ranking in Programme for International Student Assessment (PISA), there has been a trend towards a less ideological discussion on how to develop schools. These are some of the new trends:

- Establishing federal standards on quality of teaching
- More practical orientation in teacher training
- Transfer of some responsibility from the Ministry of Education to local school

5.23 FURTHER OUTCOMES

- bilingual education is now a mandatory English lessons in Grundschule
- The educational act (Bildungspakt) in 2019 should rise the internet and computer skill level of the schools

5.24 OVERVIEW

In Germany, education is the responsibility of the states (Länder) and part of their constitutional sovereignty (Kulturhoheit der Länder). Teachers are employed by the Ministry of Education for the state and usually have a job for life after a certain period (verbeamtet) (which, however, is not comparable in timeframe nor competitiveness to the typical tenure track, e.g. at universities in the US).[193] This practice depends on the state and is currently changing. A parents' council is elected to voice the parents' views to the school's administration. Each class elects one or two "Klassensprecher" (class presidents; if two are elected usually one is male and the other female), who meet several times a year as the "Schülerrat" (students' council).

A team of school presidents is also elected by the pupils each year, whose main purpose is organizing school parties, sports tournaments and the like for their fellow students. The local town is responsible for the school building and employs the janitorial and secretarial staff. For an average school of 600 – 800 students, there may be two janitors and one secretary. School

[193] Regina Egetenmeyer (2015), Adult Education and Lifelong Learning in Europe and Beyond Comparative Perspectives from the 2015 Würzburg Winter School, Peter Lang AG (16 November 2015), ISBN-10 : 3631666357, ISBN-13 : 978-3631666357

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administration is the responsibility of the teachers, who receive a reduction in their teaching hours if they participate.

Church and state are separated in Germany. Compulsory school prayers and compulsory attendance at religious services at state schools are against the constitution. (It is expected, though, to stand politely for the school prayer even if one does not pray along.) In 1995, it was ruled that the Christian cross was not allowed in classrooms, as it violates the religious freedom of non-Christian students. The cross is allowed if none of the pupils object, but must be removed in the event of an objection.[194] Some German states have banned teachers from wearing headscarves.

5.25 LITERACY

Over 99% of Germans aged 15 and above are estimated to be able to read and write.[195]

5.25.1 Pre-School

The German preschool is known as a Kindergarten (plural Kindergärten) or Kita, short for Kindertagesstätte (meaning "children's daycare center"). Children between the ages of 2 and 6 attend Kindergärten, which are not part of the school system. They are often run by city or town administrations, churches, or registered societies, many of which follow a certain educational approach as represented, e.g., by Montessori or Reggio Emilia or "Berliner Bildungsprogramm", etc. Forest kindergartens are well established. Attending a Kindergarten is neither mandatory nor free of charge, but can be partly or wholly funded, depending on the local authority and the income of the parents. All caretakers in Kita or Kindergarten must have a three-year qualified education, or be under special supervision during training.

Kindergärten can be open from 7 a.m. to 5 p.m. or longer and may also house a Kinderkrippe, meaning crèche, for children between the ages of eight weeks and three years, and possibly an afternoon Hort (often associated with a primary school) for school-age children aged 6 to 10 who spend the time after their lessons there. Alongside nurseries, there are day-care nurses (called Tagesmutter, plural Tagesmütter – the formal, gender-neutral form is Tagespflegeperson(en)) working independently from any pre-school institution in individual

[194] Gary S. Schaal: Der "Kruzifix-Beschluss" und seine Folgen. In: Robert Chr. van Ooyen, Martin Möllers (Hrsg.): Das Bundesverfassungsgericht im politischen System. VS Verlag für Sozialwissenschaften, Wiesbaden 2006, ISBN 3-531-14762-5, p. 175–186.(in German)

[195] "The World Factbook – Central Intelligence Agency". cia.gov. Retrieved 28 December2022.

Electronic copy available at: https://ssrn.com/abstract=4138351

homes and looking after only three to five children typically up to three years of age. These nurses are supported and supervised by local authorities.

The term Vorschule, meaning 'pre-school', is used both for educational efforts in Kindergärten and for a mandatory class that is usually connected to a primary school. Both systems are handled differently in each German state. The Schulkindergarten is a type of Vorschule.

During the German Empire, children were able to pass directly into secondary education after attending a privately run, charged "Vorschule" which then was another sort of primary school. The Weimar Constitution banned these, feeling them to be an unjustified privilege, and the Basic Law still contains the constitutional rule (Art. 7 Sect. VI) that: Pre-schools shall remain abolished.

5.26 HOMESCHOOLING

Homeschooling is – between Schulpflicht beginning with elementary school to 18 years – illegal in Germany. The illegality has to do with the prioritization of children's rights over the rights of parents: children have the right to the company of other children and adults who are not their parents, also parents cannot opt their kids out of sexual education classes because the state considers a child's right to information to be more important than a parent's desire to withhold it.[196]

5.27 PRIMARY EDUCATION

Parents looking for a suitable school for their child have a wide choice of elementary schools

- State school. State schools do not charge tuition fees. The majority of pupils attend state schools in their neighbourhood. Schools in affluent areas tend to be better than those in deprived areas. Once children reach school age, many middle-class and working-class families move away from deprived areas.
- or, alternatively
  - Waldorf school (2,006 schools in 2007) (covers grades from 1–13)
  - Montessori method school (272)
  - Freie Alternativschule (free alternative school) (85[197])
  - Protestant (63) or Catholic (114) parochial schools

[196] Martinko, Katherine (8 February 2018). "'Achtung Baby: An American Mom on the German Art of Raising Self-Reliant Children' (book review)". Treehugger. Retrieved 8 February 2018.

[197] As of 2007.*Zier, Jan (9 October 2007).* "Auch nicht liberaler als Bayern" *[No more liberal than Bavaria]. taz.de (in German).* Retrieved 12 January 2011.

Electronic copy available at: https://ssrn.com/abstract=4138351

The entry year can vary between 5 and 7, while stepping back or skipping a grade is also possible.

5.28 SECONDARY EDUCATION

After children complete their primary education (at 10 years of age, 12 in Berlin and Brandenburg), there are five options for secondary schooling:

1. Gymnasium (grammar school) until grade 12 or 13 (with Abitur as exit exam, qualifying for university); and
2. Fachoberschule admission after grade ten until grade twelve (with Fachhochschulreife (between Abitur and Realschulabschluss) as exit exam) it is also possible to leave after grade thirteen and get either the "fachgebundene Abitur" (if you haven't learned a language besides English) or get the "Abitur" (with a second language on European level B1) ;
3. Realschule until grade ten (with Mittlere Reife (Realschulabschluss) as exit exam);
4. Mittelschule (the least academic, much like a modernized Volksschule [elementary school]) until grade nine (with Hauptschulabschluss and in some cases Mittlere Reife = Realschulabschuss as exit exam); in some federal states the Hauptschule does not exist and pupils are mainstreamed into a Mittelschule or Regionale Schule instead.
5. Gesamtschule (comprehensive school)
6. After passing through any of the above schools, pupils can start a career with an apprenticeship in the Berufsschule (vocational school). The Berufsschule is normally attended twice a week during a two, three, or three-and-a-half-year apprenticeship; the other days are spent working at a company. This is intended to provide a knowledge of theory and practice. The company is obliged to accept the apprentice on its apprenticeship scheme. After this, the apprentice is registered on a list at the Industrie- und Handelskammer IHK (chamber of industry and commerce). During the apprenticeship, the apprentice is a part-time salaried employee of the company. After passing the Berufsschule and the exit exams of the IHK, a certificate is awarded and the young person is ready for a career up to a low management level. In some areas, the schemes teach certain skills that are a legal requirement (special positions in a bank, legal assistants).
7. Some special areas provide different paths. After attending any of the above schools and gaining a leaving certificate like Hauptschulabschluss, Mittlere Reife (or Realschulabschuss, from a Realschule) or Abitur from a Gymnasium or

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a Gesamtschule, school leavers can start a career with an apprenticeship at a Berufsschule (vocational school). Here the student is registered with certain bodies, e.g. associations such as the German Bar Association Deutsche Rechtsanwaltskammer GBA (board of directors). During the apprenticeship, the young person is a part-time salaried employee of the institution, bank, physician or attorney's office. After leaving the Berufsfachschule and passing the exit examinations set by the German Bar Association or other relevant associations, the apprentice receives a certificate and is ready for a career at all levels except in positions which require a specific higher degree, such as a doctorate. In some areas, the apprenticeship scheme teaches skills that are required by law, including certain positions in a bank or those as legal assistants. The 16 states have exclusive responsibility in the field of education and professional education. The federal parliament and the federal government can influence the educational system only by financial aid to the states. There are many different school systems, but in each state the starting point is always the Grundschule (elementary school) for a period of four years; or six years in the case of Berlin and Brandenburg.

Grades 5 and 6 form an orientation or testing phase (Orientierungs- or Erprobungsstufe) during which students, their parents and teachers decide which of the above-mentioned paths the students should follow. In all states except Berlin and Brandenburg, this orientation phase is embedded into the program of the secondary schools. The decision for a secondary school influences the student's future, but during this phase changes can be made more easily. In practice this rarely comes to bear because teachers are afraid of sending pupils to more academic schools whereas parents are afraid of sending their children to less academic schools. In Berlin and Brandenburg, the orientation is embedded into that of the elementary schools. Teachers give a so-called educational (path) recommendation (Bildungs(gang)empfehlung) based on scholastic achievements in the main subjects (mathematics, German, natural sciences, foreign language) and classroom behavior with details and legal implications differing from state to state: in some German states, those wishing to apply for a Gymnasium or Realschule require such a recommendation stating that the student is likely to make a successful transition to that type of school; in other cases anybody may apply. In Berlin 30% – 35% of Gymnasium places are allocated by lottery. A student's performance at primary school is immaterial.[citation needed] While the entry year is depending on the last year in the Grundschule stepping back or skipping a grade is possible between 7th and 10th grade and only stepping back between 5th and 6th grade (so called Erprobungsstufe, meaning testing grade) and 11th and 12th grade.

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The eastern states Saxony, Saxony-Anhalt and Thuringia combine Hauptschule and Realschule as Sekundarschule, Mittelschule and Regelschule respectively. All German states have Gymnasium as one possibility for the more able children, and all states – except Saxony – have some Gesamtschulen, but in different forms. The states of Berlin and Hamburg have only two types of schools: comprehensive schools and Gymnasium.

Learning a foreign language is compulsory throughout Germany in secondary schools and English is one of the more popular choices. Students at certain Gymnasium are required to learn Latin as their first foreign language and choose a second foreign language. The list of available foreign languages as well as the hours of compulsory foreign language lessons differ from state to state, but the more common choices, besides Latin, are English, French, Spanish, ancient Greek. Many schools also offer voluntary study groups for the purpose of learning other languages. At which stage students begin learning a foreign language differs from state to state and is tailored according to the cultural and socio-economical dynamics of each state. In some states, foreign language education starts in the Grundschule (primary school). For example, in North Rhine-Westphalia and Lower Saxony, English starts in the third year of elementary school. Baden-Württemberg starts with English or French in the first year. The Saarland, which borders France, begins with French in the third year of primary school and French is taught in high school as the main foreign language.

It may cause problems in terms of education for families that plan to move from one German state to another as there are partially completely different curricula for nearly every subject.

Pupils of the Realschule gaining the chance to make Abitur on a Gymnasium with a good degree in the Realschulabschluss. Stepping up is always provided by the school system. Adults who did not achieve a Realschulabschluss or Abitur, or reached its equivalent, have the option of attending evening classes at an Abendgymnasium or Abendrealschule.

5.29 TERTIARY EDUCATION

Germany's universities are recognised internationally; in the Academic Ranking of World Universities (ARWU) for 2008, six of the top 100 universities in the world are in Germany, and 18 of the top 200.[198] Germany ranks third in the QS World University Rankings 2011.[199]

[198] "Top 100 World Universities". Academic Ranking of World Universities. *Archived from* the original *on 22 August 2008*.

[199] "German Universities in the 2010 QS World University Rankings"

Electronic copy available at: https://ssrn.com/abstract=4138351

Most German universities are public institutions, charging fees of only around €60–200 per semester for each student, usually to cover expenses associated with the university cafeterias and (usually mandatory) public transport tickets.[200,201] Thus, academic education is open to most citizens and studying is very common in Germany. The dual education system combines both practical and theoretical education but does not lead to academic degrees. It is more popular in Germany than anywhere else in the world and is a role model for other countries.[202]

The oldest universities of Germany are also among the oldest and best regarded in the world, with Heidelberg University being the oldest (established in 1386 and in continuous operation since then). It is followed by Cologne University (1388), Leipzig University (1409), Rostock University (1419), Greifswald University (1456), Freiburg University (1457), LMU Munich (1472) and the University of Tübingen (1477).

While German universities have a strong focus on research, a large part of it is also done outside of universities in independent institutes that are embedded in academic clusters, such as within the Max Planck, Fraunhofer, Leibniz and Helmholtz institutes. This German peculiarity of "outsourcing" research leads to a competition for funds between universities and research institutes and may negatively affect academic rankings.

5.29.1 Figures for Germany are roughly:

- 1,000,000 new students at all schools put together for one year
- 400,000 Abitur graduations
- 30,000 doctoral dissertations per year
- 1000 habilitations per year (the traditional way to qualify as a professor, but typically postdoc or junior professorship is the preferred career path nowadays, which are not accounted for in this number)[203]

[200] "Tuition Fees at university in Germany". StudyinEurope.eu. 2009

[201] "Ein Zwischenruf Studiengebühren? Was sonst!". faz.net. 2012. Retrieved 21 March2013

[202] A German model goes global – Dual education following the German role model is replicated around the world (Financial Times)

[203] Hahn H. J. (1998), Education and Society in Germany, Berg Publishers

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5.30 LEGISLATION **APPLICABLE** TO THE GERMAN EDUCATION SYSTEM

The main legal framework which regulates the **education system in Germany** is the **Basic Law** and the main bodies which enforce various legal requirements are the **Ministry of Education** and the Ministry of Cultural Affairs and Science.[204]

Those who are interested in the **education system in Germany** should know that the **compulsory schooling** begins at the age of 6. The local system differs between **full-time education,** which can last for 9 or 10 years. It is important to know that **schools in Germany** are organized according on the region. For example, **primary school** can last up to the age of 10 in some areas, while in **Berlin, students** end their **primary studies** at the age of 12. **Lower secondary school** can end at the age of 15 or 16.

The **part-time compulsory schooling** is available for students with ages between 15/16 – 18, for those enrolled in **schools** organized as apprenticeships.

Higher education system in Germany is organized under the following types of schools:

- *universities;*
- *technical, pedagogical and theological universities;*
- *colleges with activities in the field of music and arts;*
- *universities of applied sciences.*

*The differences which appear between the **German regions** are an effect of the unification of **Germany**, which took place in 1990.*

6.0 CONCLUSION

This chapter entailed the historical development of education in USA, Germany and India. The purpose of this chapter is to interpret facts and development related to education in India, USA and Germany. The facts were gathered and then attempted to assimilate into a meaningful order. India's goal of achieving universal access and achievement, facing the barriers of inequality and injustice are demolished through a thoughtfully planned program of progressive education and equal opportunity. The poor and backward class has not received the attention it merits, while the culture of privilege looms large with ominous consequences. India's cultural conundrums are mirrored in an educational system that treats people with different backgrounds in different ways.

[204] Albi, Anneli & Bardutzky, Samo. (2019). National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law National Reports: National Reports. 10.1007/978-94-6265-273-6.

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Education in the United States is provided in public, private, and home schools. State governments set overall educational standards, often mandate standardized tests for K–12 public school systems and supervise, usually through a board of regents, state colleges, and universities. The funding comes from state and local governments. Private schools are generally free to determine their own curriculum and staffing policies, with voluntary accreditation available through independent regional accreditation authorities, although some state regulation can apply. Education in Germany is primarily the responsibility of individual German states (*Länder*), with the federal government playing a minor role. Optional Kindergarten (nursery school) education is provided for all children between one and six years old, after which school attendance is compulsory. The system varies throughout Germany because each state (*Land*) decides its own educational policies. Most children, however, first attend *Grundschule* (primary or elementary school) for 4 years from the age of 6 to 9. Germany's secondary education is separated into two parts, lower and upper. Lower-secondary education in Germany is meant to teach individuals basic general education and gets them ready to enter upper-secondary education. In the upper secondary level Germany has a vast variety of vocational programs. The historical development and struggle to implement compulsory education in three countries exhibits the importance of proper and good education for all. Education facilitates quality learning all through the life among people of any age group, cast, creed, religion and region. It is the process of achieving knowledge, values, skills, beliefs, and moral habits. The historical development provides a background of education in three countries. It is significant to understand the background before providing visionary for the future of education.

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